

DATE: September 15, 2011

MEMO CODE: CACFP 21-2011-REVISED

SUBJECT: Child Nutrition Reauthorization 2010: Nutrition Requirements for Fluid Milk and Fluid Milk Substitutions in the Child and Adult Care Food Program, Questions and Answers

TO: Child Nutrition Programs

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, modifies requirements for fluid milk and fluid milk substitutions in the Child and Adult Care Food Program (CACFP). The purpose of this memorandum is to provide guidance on the implementation of these provisions.

Section 221 of the Act amends section 17(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(g)) by requiring that fluid milk served in the CACFP be consistent with the most recent version of the Dietary Guidelines for Americans and allowing the substitution of non-dairy beverages that are nutritionally equivalent to fluid milk in cases of special dietary needs.

### **Fat-Free and Low-Fat Milk**

Milk served in the CACFP must be consistent with the most recent version of the Dietary Guidelines for Americans. The 2010 Dietary Guidelines recommend that persons over two years of age consume low-fat (1%) or fat-free (skim) fluid milk. Therefore, fluid milk served in CACFP to participants two years of age and older must be: fat-free or low-fat milk, fat-free or low-fat lactose reduced milk, fat-free or low-fat lactose free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk. Milk served must be pasteurized fluid milk that meets State and local standards, and may be flavored or unflavored. Whole milk and reduced-fat (2%) milk may not be served to participants over two years of age.

Because the Dietary Guidelines for Americans do not address milk served to children under the age of two, our requirements relating to children in this age group are unchanged at this time.

### **Non-dairy Beverages**

In the case of children who cannot consume fluid milk due to medical or other special dietary needs, other than a disability, non-dairy beverages may be served in lieu of fluid milk. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk, as outlined in the National School Lunch Program (NSLP) regulations at 7 CFR 210.10 (m)(3). CACFP State agencies have the discretion to identify appropriate substitutions that meet these requirements. We encourage CACFP State agencies to coordinate with the State agency operating the NSLP to ensure consistency in identifying appropriate locally available substitutions.

Parents or guardians may now request in writing non-dairy milk substitutions, as described above, without providing a medical statement. As an example, if a parent has a child who

follows a vegan diet, the parent can submit a written request to the child's caretaker asking that soy milk be served in lieu of cow's milk. The written request must identify the medical or other special dietary need that restricts the diet of the child. Such substitutions are at the option and the expense of the facility. The requirements related to milk or food substitutions for a participant who has a medical disability and who submits a medical statement signed by a licensed physician remain unchanged.

This provision is effective immediately; therefore State agencies and sponsors should notify facilities of these required changes immediately. However, to provide adequate time for training and technical assistance, full compliance should occur no later than October 1, 2011.

Attachment

## **A. NON-DAIRY MILK SUBSTITUTIONS**

- 1. Is a caregiver required to provide a non-dairy milk substitute if it is not related to a medical disability?**

No. It is at the caregiver's discretion to provide a non-dairy milk substitute if it is not related to a medical disability.

- 2. Will caregivers receive additional meal reimbursements if they provide a non-dairy milk substitution?**

No. All non-dairy milk substitutions are at the expense of the caregiver and/or the child's parent or guardian.

- 3. If a parent provides a creditable non-dairy milk substitute, can the caregiver serve it and still receive reimbursement?**

Yes. If a parent provides a non-dairy milk substitute that meets the nutritional standards as outlined in 7 CFR 210.10(m)(3) and that has been approved by the State agency, the caregiver may serve the non-dairy milk substitute and still claim reimbursement for the meal.

- 4. If a parent or adult participant can request a non-dairy milk substitute that is equivalent to cow's milk, can the parent or adult participant also request that their child or themselves be served whole or reduced-fat (2%) milk?**

No. The Act requires that milk served to children and adults in the CACFP be aligned with the most recent version of the Dietary Guidelines for Americans. The 2010 Dietary Guidelines for Americans recommends that persons over the age of two consume low-fat (1%) or fat-free (skim) milk. Therefore, any request for higher fat milk must be made through a medical statement, related to a medical disability, and prescribed by a licensed physician.

## **B. COMPLIANCE**

- 5. What if the parent agrees to provide the non-dairy substitute, but brings in one that does not meet the USDA's nutritional standards; can the caregiver serve it and still receive reimbursement?**

Caregivers should inform parents about the types of creditable non-dairy milk substitutes. If a non-dairy milk substitute is served that does not meet the nutritional standards outlined in 7 CFR 210.10(m)(3), then the meal is not reimbursable.

**6. When submitting menus for review, do caregivers need to document the type of milk that they serve?**

No. Caregivers are not required to document the type of milk served on their menus. However, it is the responsibility of the State or sponsor, as applicable, to ensure that the correct type of milk is being served when conducting reviews.

**7. What type of milk may one-year-old children be served?**

The milk requirements for children one year of age remain unchanged at this time. It is recommended, but not required, that children 12 through 23 months of age be served whole milk only.

**8. If one-year-old and two-year-old children sit together for the same meal, must they be served different types of milk?**

Children older than two must be served low-fat (1%) or fat-free (skim) milk and it is recommended that children one year of age be served whole milk. Providers must ensure that children of various ages seated at the same meal receive the appropriate type of milk.

**9. What happens if a caregiver serves reduced-fat (2%) or whole milk on or after October 1, 2011?**

Effective October 1, 2011, meals served to participants two years of age and older that include reduced-fat (2%) or whole milk are not reimbursable and must be disallowed. In addition, the provider should submit a corrective action plan and the State agency or sponsor should follow-up to ensure that it has been successfully implemented.

**C. ADULT PARTICIPANTS**

**10. Must adults participating in the CACFP be served 1% or fat-free milk only?**

Yes. The provision in the law [42 USC §1766(g)] requires all CACFP institutions to serve low-fat or fat-free milk, which includes adult day care facilities.

**11. Can adults submit a written request for a non-dairy milk substitution?**

Yes. Adult participants, or their caregivers, may request in writing a non-dairy milk substitute that meets the nutritional standards as outlined in 7 CFR 210.10(m)(3) and that has been approved by the State agency.